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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,491	03/01/2004	William D. Lockwood	7839	9472

7590 03/11/2005

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EXAMINER

MAYO, TARA L

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/790,491

Applicant(s)

LOCKWOOD, WILLIAM D.

Examiner

Tara L. Mayo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 4-6, 11-13 and 16-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-10, 14 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 06/01/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species A, as seen in Figures 1 through 5; and

Species B, as seen in Figures 6 through 9.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 9 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species

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to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Alan F. Meckstroth on 28 February 2005 a provisional election was made without traverse to prosecute the invention of Species A, claims 1 through 3, 7 through 10, 14 and 15. Affirmation of this election must be made by applicant in replying to this Office action. Claims 4 through 6, 11 through 13 and 16 through 19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 through 3, 7 through 10, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lockwood (U.S. Patent No. 4,993,872) in view of *Concrete Reinforcement*.

Lockwood '872, as seen in Figures 12 through 15, discloses a precast concrete retaining wall system comprising:

with regard to claims 1 and 9,

a precast retaining wall (95) adapted to be supported by a concrete footer (12);  
secondary reinforcing members (99) extending generally throughout said retaining wall;  
at least one precast concrete anchor member including an outer flange wall (114) and an integrally connected web wall (112) connecting said flange wall to said retaining wall;  
elongated reinforcing members (118) extending within said web wall of said anchor member and including connecting portions (121) projecting into said retaining wall; and

with regard to claims 8 and 15,

the secondary reinforcing members comprising wire mesh.

Lockwood '872 discloses all of the features of the claimed invention with the exception(s) of:

with regard to claims 1 and 9,

a set of generally vertical primary reinforcing bars adjacent the connecting portions, the primary reinforcing bars being substantially larger than the secondary reinforcing members;

with regard to claims 2 and 10,

the connecting portions being enlarged head portions and the primary reinforcing bars being located between the head portions and the web wall;

with regard to claim 3,

the web wall being parallel to the vertical primary reinforcing bars; and

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with regard to claims 7 and 14,

the secondary reinforcing members comprising elongated metal fibers.

*Concrete Reinforcement* expressly teaches the combination of reinforcement bars and reinforcing mesh for imparting tensile strength to concrete. *Concrete Reinforcement* further teaches the alternative use of metal fibers for crack control, improved impact resistance and hardness, and reduced permeability after curing.

With regard to claims 1 and 9, it would have been obvious to one having ordinary skill in the art of concrete engineering at the time the invention was made to modify the device shown by Lockwood '872 such that it would include vertical primary reinforcing bars as suggested by *Concrete Reinforcement*. The motivation would have been to structurally strengthen wall and transfer loads directly to the footer. With regard to claim 3, the web walls would inherently be vertical

With regard to claims 2 and 10, it would have been obvious to one having ordinary skill in the art of concrete engineering at the time the invention was made to modify the device shown by Lockwood '872 such that the connecting portions would comprise enlarged head portions instead of angled ends since the examiner takes Official Notice of the equivalence of angled ends and enlarged ends for their use in the art and the selection of any of these known equivalents to anchor reinforcement bars in concrete would be within the level of ordinary skill in the art.

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With regard to claims 7 and 14, it have been obvious to one having ordinary skill in the art of concrete engineering at the time the invention was made to modify the device shown by Lockwood '872 such that it would include metal reinforcing fibers as suggested by *Concrete Reinforcement*. The motivation would have been to control the formation of cracks.

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 703-305-3019. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

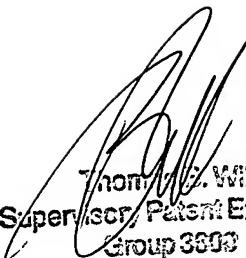
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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 tlm  
02 March 2005

  
Thomas E. Vail  
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Group 3600